



PUBLIC NOTICE

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**WIRELESS TELECOMMUNICATIONS BUREAU
ADVISES 2.3 GHZ WIRELESS COMMUNICATIONS SERVICE LICENSEES THAT IT
WILL NOT ACCEPT SUBSTANTIAL SERVICE PERFORMANCE SHOWINGS**

WT Docket No. 07-293

1. By this Public Notice, and pursuant to the Commission's recent *WCS Report and Order*,¹ the Wireless Telecommunications Bureau advises 2.3 GHz Wireless Communications Service (WCS) licensees that it will not accept substantial service performance showings.²

2. In the *WCS Report and Order*, the Commission revised certain WCS technical rules and adopted enhanced performance requirements to facilitate the provision of new broadband services to the American public in the 2.3 GHz band.³ The Commission declared that the enhanced "performance requirements supersede the substantial service performance requirement for all WCS licensees, including any licensee that previously filed a substantial service demonstration."⁴ The Commission also declared that the enhanced performance requirements supplant AT&T's heightened substantial service obligations to serve 25 percent of the population for each of its WCS licenses for mobile or point-to-multipoint services, or to construct at least five permanent links per one million people in the service area for fixed point-to-point services.⁵

¹ See Amendment of Part 27 of the Commission's Rules to Govern the Operation of Wireless Communications Services in the 2.3 GHz Band, WT Docket No. 07-293, *Report and Order (WCS Report and Order)*, Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band, IB Docket No. 95-91, *Second Report and Order*, FCC 10-82 (rel. May 20, 2010).

² See 47 C.F.R. § 27.14(a). In December 2006, the Wireless Telecommunications Bureau granted a three-year extension of the initial WCS construction deadline, until July 21, 2010, for certain WCS licensees. See Consolidated Request of the WCS Coalition for Limited Waiver of Construction Deadline for 132 WCS Licenses, *Order*, 21 FCC Rcd 14134 (WTB 2006).

³ See generally *WCS Report and Order*.

⁴ *Id.* at ¶ 218.

⁵ *Id.* at ¶ 221. See also AT&T Inc. and BellSouth Corporation; Application for Transfer of Control, WC Docket No. 06-74, *Memorandum Opinion and Order*, 22 FCC Rcd 5662, 5816 (2007).

Further, the Commission dismissed all pending substantial service demonstrations and pleadings filed in opposition as moot.⁶

3. In light of the foregoing and pursuant to section 1.3 of the Commission's rules,⁷ the Bureau hereby temporarily suspends the 2.3 GHz WCS substantial service performance requirement (current section 27.14(a) of the Commission's rules) until the enhanced 2.3 GHz WCS performance requirements become effective.⁸ WCS licenses therefore will not automatically terminate under section 1.946(c) of the Commission's rules for not meeting the superseded substantial service performance requirement.⁹ Accordingly, the Bureau will not accept for filing any further substantial service showings for the 2.3 GHz WCS Band.

4. For further information regarding this Public Notice, please contact Richard Arsenault, Chief Counsel of the Wireless Telecommunications Bureau, Mobility Division, at (202) 418-0920, richard.arsenault@fcc.gov.

5. Action taken pursuant to 47 C.F.R. §§ 0.131 and 1.3.¹⁰

⁶ *WCS Report and Order* at ¶ 221.

⁷ 47 C.F.R. § 1.3.

⁸ The enhanced requirements will be codified in new section 27.14(p) of the Commission's rules. Licensees must satisfy the applicable enhanced performance requirements within 42 months and within 72 months of the effective date of the revised WCS technical rules. *See WCS Report and Order* at ¶¶ 191 and 205. The revised technical rules will become effective 30 days after publication in the Federal Register, except for rules containing new or modified information collection requirements, which are subject to OMB approval and will become effective after Commission publication of a notice in the Federal Register of OMB approval and the relevant effective date.

⁹ 47 C.F.R. § 1.946(c) ("If a licensee fails to commence service or operations by the expiration of its construction period or to meet its coverage or substantial service obligations by the expiration of its coverage period, its authorization terminates automatically (in whole or in part as set forth in the service rules), without specific Commission action, on the date the construction or coverage period expires.").

¹⁰ See also *WCS Report and Order* ¶ 322 (delegating authority to the Wireless Telecommunications Bureau "to implement the policies set forth in the Report and Order in WT Docket No. 07-293").